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Letter dated 4 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fourth report from the Republic of the Congo, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Letter dated 12 April 2006 from the Permanent Representative of the Congo to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On instructions from my Government, I have the honour to transmit to you herewith the fourth national report submitted by the Republic of the Congo on the implementation of Security Council resolution 1373 (2001) (see enclosure).

My Government reiterates its willingness to cooperate with the Counter-Terrorism Committee and is prepared to provide whatever further information may be needed.

(*Signed*) Basile **Ikouebe**

Enclosure*

[Original: French]

Fourth report of the Republic of the Congo submitted to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

Introduction

It was in reaction to the events of 11 September 2001 that the Security Council established an appropriate juridical framework to promote both human and material mobilization with a view to preventing and combating, to the greatest extent possible, terrorism in all its forms and manifestations.

The Republic of the Congo is a transit country having a population of more than 3 million inhabitants for an area of 342,000 square kilometres. Having a Constitution that does not depart from the great principles set forth in the Universal Declaration of Human Rights, it is open to all forms of bilateral and multilateral cooperation for combating the growing scourge of terrorism with a view to its eradication. For that reason, it has already produced three reports pursuant to Security Council resolution 1373 (2001):

- An initial report in August 2002;
- A supplementary report in June 2003;
- A third report in June 2005.

The present report shows the progress made as well as the difficulties encountered both in the ratification of the universal instruments against terrorism and in their implementation.

Status of ratifications and reports submitted to date to the Counter-Terrorism Committee (CTC)

The Republic of the Congo is a party to the following conventions:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, since 13 November 1978;
- Convention for the Suppression of Unlawful Seizure of Aircraft, since 24 November 1978;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, since 19 March 1987;
- United Nations Convention against Corruption (UNCAC), since 31 January 2006.

* Attachments are on file with the Secretariat and are available for consultation.

In addition, it has commenced the procedure for the ratification of the following conventions:

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 14 December 1973;
- International Convention against the Taking of Hostages, of 17 December 1979;
- International Convention for the Suppression of the Financing of Terrorism;
- International Convention for the Suppression of Terrorist Bombings, of 15 December 1997;
- OAU Convention on the Prevention and Combating of Terrorism.

Back in 2000, the Congo signed the United Nations Convention against Transnational Organized Crime (the Palermo Convention) and two of its supplementary protocols. However, the ratification process is not yet completed.

Status of submission of reports to the Counter-Terrorism Committee

To date, the Congo has submitted three reports to the CTC:

- The first report was submitted on 6 September 2002;
- The second, on 25 June 2003;
- The third, on 3 June 2005.

Status of implementation

A commission charged with adapting the provisions of the Penal Code to those of the universal legal instruments relating to the fight against terrorism and transnational organized crime was recently established.

This body was created in the wake of the technical assistance seminar organized by the Government of the Republic in Brazzaville on 6 and 7 July 2004 with the assistance of the United Nations Office on Drugs and Crime. The commission is made up of members of the staffs of ministerial departments involved in the management of problems relating to counter-terrorism.

1. Violations connected with civil aviation

A National Civil Aviation Agency is in charge of the protection of civil aviation against criminal and terrorist threats.

Article 10 of Law No. 006-91 of 16 May 1991, on the suppression of violations against the safety of civil aviation in the Republic of the Congo, provides as follows:

The following shall be deemed accomplices to a violation against the safety of civil aviation and shall be punished as such:

– Persons who, by means of gifts, promises, threats, abuse of authority or power or culpable machinations or artifices, have caused such violation or given instructions for the commission thereof;

- Persons who have procured arms and munitions, instruments or other means having been used for the violation, in the knowledge that they were to be used therefor;

- Persons who have knowingly aided or assisted the perpetrator or perpetrators of the violation.

Violations founded on the status of the victim

- Violations connected with hazardous materials;

- Violations concerning ships and fixed platforms;

- Violations connected with the financing of terrorism.

The Congo is a member of the Central African Economic and Monetary Community (CEMAC). On 28 March 2003, in Yaoundé, the Community's Ministerial Committee adopted CEMAC Regulation No. 01/03-CEMAC-UMAC, which provides for the prevention and suppression of money-laundering and the financing of terrorism in Central Africa and is an integral part of Congolese domestic law.

The Regulation describes money-laundering and terrorist-financing violations in exactly the same terms as article 2 of the Convention for the Suppression of the Financing of Terrorism and article 6 of the United Nations Convention against Transnational Organized Crime.

Articles 96 and 268 of the Penal Code provide as follows:

The fact or providing financial assistance to a terrorist group or criminal organization constitutes an act of complicity liable to prosecution in the Republic of the Congo.

With regard to the freezing or confiscation of assets, it should also be pointed out that this regulation, some provisions of which are relevant, is directly applicable in the Congo.

2. Code of Criminal Procedure

Competent jurisdiction for trying terrorism-related violations

Inasmuch as terrorist acts are criminal in nature, although no law yet provides for the punishment of this crime, only the criminal chamber of the Court of Appeal is competent.

Convention on extradition

In accordance with Security Council resolution 1373 (2001), a Committee on Eligibility for Refugee Status was created following the attacks of 11 September 2001 (under Decree No. 8041 of 28 December 2001). The Committee may deny or withdraw refugee status in the case of individuals subject to weighty presumptions of involvement in terrorist acts or other activities contrary to the purposes and principles of the African Union and the United Nations.

Article 1 pertaining to the Committee provides: "The Committee is charged in particular with giving opinions on the implementation of any expulsion or extradition measure concerning a refugee or asylum seeker."

On 4 December 1999, the Congo signed a framework agreement on cooperation in the area of security with Angola and the Democratic Republic of the Congo.

The Republic of the Congo has also concluded a number of bilateral treaties with other States in areas such as mutual judicial assistance and security, as well as the agreement on mutual judicial assistance and cooperation among the States members of the Economic Community of Central African (CEEAC) and the agreement on judicial cooperation among the States members of CEMAC.

The Congo maintains judicial and legal relations with the Democratic Republic of the Congo, Cuba and France.

Article 58 of the Convention on Juridical Cooperation between the Congo and France provides:

> The two States agree to hand over to each other, in accordance with the rules and under the conditions determined by the present Convention, persons who, being in the territory of either of them, are being pursued or prosecuted or have been sentenced by the judicial authorities of the other.

Other agreements are being negotiated with Angola, the Russian Federation and Israel.

Article 1 of Law No. 25/82 of 7 July 1982, on the extradition of aliens, provides:

> In the absence of treaties or conventions, the conditions, procedure and effects of extradition shall be determined by the provisions of the present Law. The present Law shall also apply in respect of points not regulated by treaties or conventions.

The Congo is a party to the general judicial cooperation convention known as the Tananarive Convention, of 12 September 1961, which governs relations of judicial cooperation between the Congo and other African countries.

Measures taken against the financing of terrorism

The Congo applies the rules governing the Central African Banking Commission (COBAC) in freezing or blocking the accounts and assets of terrorists in banks and financial institutions.

A draft decree organizing and assigning responsibilities for the General Directorate of Credit and Financial Relations entrusts to that structure the task of combating economic crime. A draft law has been elaborated with a view to the elimination of such crime. It covers the following aspects:

- Regulation of cash transactions;
- Monitoring of all transfers to the exterior;
- Prevention and punishment of terrorist acts;
- Adherence to all international conventions pertaining to terrorism.

Technical assistance

The United Nations Office on Drugs and Crime (UNODC) organized a seminar in Brazzaville on 6 and 7 July 2004 intended to assist the Government of the Congo in promoting the ratification of the universal instruments against terrorism and the United Nations Convention against Transnational Organized Crime.

The UNODC representatives presented to the Congolese authorities two options relating to the incorporation of the violations contained in the international conventions on terrorism into national law, namely:

(a) Adopting a special law; or

(b) Amending the Penal Code.

Regional and subregional working groups or conferences organized by UNODC in which the Congo has participated

The Congo took part in the Regional Ministerial Conference of Francophone African Countries on the ratification of the United Nations Convention against Transnational Organized Crime, which was held in Cairo, Egypt, from 2 to 4 September 2003.

The Congo also participated in the Sub-Regional Seminar to assist African States in implementing the universal instruments against terrorism and transnational organized crime, held in Bamako, Mali, from 25 to 28 November 2003.

It took part in the Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, transnational organized crime and corruption as well as on the drafting of reports to the Counter-terrorism Committee of the United Nations Security Council, held in Praia, Cape Verde, from 8 to 10 December 2004.

Finally, the Congo also took part in the conference of Ministers of Justice on the implementation of the universal instruments against terrorism that was held at Sharm el-Sheikh, Egypt, from 7 to 9 February 2006. In response to a request addressed to UNODC with a view to the training of persons exercising important functions in the Congolese judicial system, a video conference will be organized in Brazzaville during the first half of May 2006. Its purpose is both to assist the Government in the task of incorporating universal instruments into the law and to provide Congolese executives with the requisite intellectual weapons for fighting terrorism and transnational organized crime.

Conclusion

The Republic of the Congo, notwithstanding the difficulties inherent in its evolving situation, is making every possible effort to comply with Security Council resolution 1373 (2001). Owing to the schedule of parliamentary sessions, it has not yet been possible, since the Sharm el-Sheikh ministerial conference, to adopt further laws authorizing the ratification of international legal instruments.

The support of the international community in this undertaking of great public interest is indispensable.